

REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claims 4 and 5 have been amended for clarity.

The Examiner has objected to Fig. 1 of the drawing "because claim 7 teaches that the timer operably coupled to the verifier and the render, but figure 1 does show that the timer only couples to verifier. The connection is requested."

Applicant submits that the Examiner is mistaken. In particular, the Timer 128 is shown connected to the Verifier 126 via a two-way lead line, while the Verifier 126 is connected to the Renderer 122 via a two-way lead line. However, it has been well-established in patent claim drafting that the term "coupled" may include intervening elements (while the term "connected" commonly does not include intervening elements). Claim 7 clearly indicates "a timer, operably coupled to the verifier and the renderer". Fig. 1 clearly shows this coupling of Timer 128 to the Renderer 122 via the Verifier 126. Applicant therefore submits that no correction is needed to Fig. 1.

The Examiner has rejected claims 7 and 9 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,785,815 to Serret-Avila et al. in view of U.S. Patent 6,910,221 to Honda U.S. Patent 4,924,378 to Hershey et al. The Examiner has further rejected claims 4-6 under 35 U.S.C. 103(a) as being unpatentable over

Hershey et al. in view of U.S. Patent 5,659,617 to Fischer. In addition, the Examiner has rejected claim 10 under 35 U.S.C. 103(a) as being unpatentable over Hershey et al. in view of U.S. Patent 6,496,802 to Zoest et al. Finally, the Examiner has rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Serret-Avila et al. in view of Honda and Hershey et al., and further in view of U.S. Patent 6,954,786 to Vered et al.

The Serret-Avila et al. patent discloses methods and systems for encoding and protecting data using digital signature and watermarking techniques, which includes a renderer for rendering a selected data item out of a plurality of data items corresponding to a data set as presented on a CD or DVD. In addition, the Serret-Avila et al. system includes "a signature verification engine for verifying the integrity of a portion of the electronic file using a digital signature..."

The Honda patent discloses a moving image communication evaluation system and moving image communication evaluation method in which a response time measurement section 50 measures the response time between a moving image request, initiated at section 11 in cooperation with operation section 23, the request being sent to a communication terminal 30 via a network 10, and the displaying of the requested moving image on a moving image display section 12.

The Hershey et al. patent discloses a license management system and license storage key in which an application program to

be run on a computer must be assigned a license in the license storage key associated with the computer before it is permitted to run. In particular, the computer on which the application program is to be run, requests a license for the application program. The license storage key then searches for the appropriate license and responds to the computer when the license is found. As indicated at col. 5, lines 27-36, the computer includes a timer for enabling the computer to keep track of responses for which it is waiting. If a response is not received within the time set by the timer, then an error is sent to the computer.

The subject invention relates to, for example, a system for confirming which a user is authorized to playback a track that is found on a CD which contains a plurality of tracks. If the user is in possession of the CD, then other tracks should be available for the verifier to check. If the user is not in possession of the CD, then the other tracks are not available. Alternatively, the user may attempt to "trick" the system by downloading the other requested tracks. This would then be detected by the system due to the additional time required to search for, locate and download the other requested tracks as opposed to the tracks merely being accessed on the CD.

The subject invention, as claimed in claim 7, includes "a renderer for receiving a plurality of data items corresponding to a data set, and for producing therefrom a rendering corresponding to

a selected data item", "a verifier, operably coupled to the renderer, for precluding the rendering corresponding to the selected data item in dependence upon whether other data items of the plurality of data items are available to the renderer", "a timer, operably coupled to the verifier and the renderer, for measuring response times associated with responses to requests for the other data items from the renderer", and "wherein the verifier precludes the rendering based at least in part on an assessment of the response times".

The Examiner indicates that the "renderer" as claimed in claim 7 is found in Serret-Avila et al., and indicates the Abstract, lines 5-11, and col. 3, lines 29-46; that the "verifier" as claimed in claim 7 is also found in Serret-Avila et al., and indicates col. 3, lines 29-36, i.e., the Examiner believes that the signature verification engine is equivalent to the "verifier" as claimed; and that the "timer" as claimed in claim 7 is found in Honda, and indicates col. 3, lines 35-67, col. 4, lines 1-67, col. 9, lines 1-67 and col. 10, lines 1-67, i.e., the response time measurement section 50 is equivalent to the "timer" as claimed.

It should be noted that the Examiner acknowledges that the combination of Serret-Avila et al. and Honda does not disclose the limitation "wherein the verifier precludes the rendering based at least in part on an assessment of the response times". However, the Examiner indicates "Hershey disclosed a timer is set in the

operating system of the work station to keep track of responses it is waiting for, and based on comparison between response time and the time is set by timer the verifier determines that it is valid request or not."

As indicated in MPEP §2143.01, "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." Further, "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Applicant submits that the Examiner is mistaken. In particular, while Serret-Avila et al. includes a form of a verifier, the signature verification engine of Serret-Avila et al. does not preclude "the rendering corresponding to the selected data item in dependence upon whether other data items of the plurality of data items are available to the renderer" as specifically claimed in claim 7. Rather, the signature verification engine checks whether the selected data set includes the digital signature (Abstract lines 10-13).

Further, Applicant submits that there is no incentive for combining Honda with Serret-Avila et al. in that the signature verification engine of Serret-Avila et al. does not establish the validity of the electronic data based on time but rather on the presence of a particular digital signature. Hence, there is no incentive for including a response time measurement function in the system of Serret-Avila et al.

While Hershey et al. includes a timer which measures the response time of requests for a license, and which sends an error message when a response time exceeds a predetermined limit, this error message prevent a computer from using an operating program. There is no disclosure that the operating program is a selected data item from a plurality of data items in a data set. Rather, in Hershey et al., the data set is the library of licenses, and the desired operating program identifies a license hopefully included in the library of licenses.

Further, Applicant submits that Hershey et al. does not provide the incentive for inclusion of the timer function therein into the response time measurement section of Honda, and the inclusion of this combination into Serret-Avila et al.

The Fischer patent discloses a method for providing location certificates, in which a location certification unit (LCU) includes a position determination unit (PDU) which includes conventional position determining apparatus for receiving Loran

and/or GPS signals and for computing its position" (col. 2, line 52 to col. 3, line 1).

The subject invention, as claimed in claim 4, includes "a verifier for determining an authorization to process protected material, based on one or more responses to one or more requests", "a timer for measuring response times associated with the one or more responses to the one or more requests", "the verifier determines the authorization based at least in part on an assessment of the response times", and "the response times are correlated to a physical proximity between the verifier and a first source of the one or more requests, and between the verifier and a second source of the one or more requests".

The Examiner now indicates that Hershey et al. discloses the "verifier" and the "timer" as claimed, and that Fischer discloses a unique location certificates to establish the location of participants in a network, determine the validity of objects which are expected to be present within certain geographic bounds and control the use of security or sensitive devices (col. 1, lines 49-56). And that it would have been obvious to combine Fischer's ideas of using a unique location certificates to establish the location of participants in a network with Hershey's system in order to control the use of security or sensitive devices.

Applicant submits that from the above, it should be apparent that the Examiner does not understand the invention. In

particular, claim 4 states "the verifier determines the authorization based at least in part on an assessment of the response times", and "the response times are correlated to a physical proximity between the verifier and a first source of the one or more requests, and between the verifier and a second source of the one or more requests".

There is no disclosure in Hershey et al. or Fischer that the response times are correlated to a physical proximity between the verifier and a first source, and between the verifier and a second source. Rather, the physical position of a location certification unit (LCU) is determined using Loran and/or GPS (global positioning satellite). As such, it is indeterminate how Fischer could be combined with Hershey et al. in order to render the claimed invention obvious.

The van Zoest et al. patent discloses a system and method for providing access to electronic works, in which, in one embodiment, a ripper 215 randomly extracts portions or "samples" of the raw data from each track on the CD, these samples being identified randomly, for verifying the authorization of the user.

Claim 10, which depends from claim 7, states "the verifier is configured to randomly select the other data items".

While van Zoest et al. arguably shows the random selection of samples, Applicant submits that there would be no incentive for combining this feature with Hershey et al. in that the object of

the license storage key in Hershey et al. is to provide the requested license, not a randomly selected license.

The Vered et al. patent discloses a method and architecture for a high performance cache for distributed, web-based management solutions, and states "It is also realized that with the ability to manage a network from anywhere, possibly remotely, network latency issues are unlikely to be avoided entirely. However, with the use of an efficient protocol and with the introduction of a middle-tier--"Back-End" that is physically positioned in close proximity, possibly even on the same host as the agent and employs a cache for storage of previous query results, performance and response time is improved significantly."

Applicant submits while Vered et al. discloses the realization that response times may be linked to physical proximity, Vered et al. does not supply the short-comings of Serret-Avila et al., Honda and Hershey et al., i.e., in particular, while Serret-Avila et al. includes a form of a verifier, the signature verification engine of Serret-Avila et al. does not preclude "the rendering corresponding to the selected data item in dependence upon whether other data items of the plurality of data items are available to the renderer" as specifically claimed in claim 7. Rather, the signature verification engine checks whether the selected data set includes the digital signature (Abstract lines 10-13).

Further, Applicant submits that there is no incentive for combining Honda with Serret-Avila et al. in that the signature verification engine of Serret-Avila et al. does not establish the validity of the electronic data based on time but rather on the presence of a particular digital signature. Hence, there is no incentive for including a response time measurement function in the system of Serret-Avila et al.

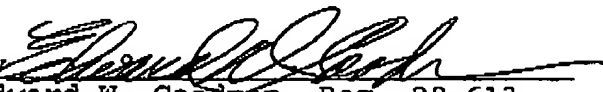
While Hershey et al. includes a timer which measures the response time of requests for a license, and which sends an error message when a response time exceeds a predetermined limit, this error message prevent a computer from using an operating program. There is no disclosure that the operating program is a selected data item from a plurality of data items in a data set. Rather, in Hershey et al., the data set is the library of licenses, and the desired operating program identifies a license hopefully included in the library of licenses.

Further, Applicant submits that Hershey et al. does not provide the incentive for inclusion of the timer function therein into the response time measurement section of Honda, and the inclusion of this combination into Serret-Avila et al.

In view of the above, Applicant believes that the subject invention, as claimed, is not rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicant believes that this application, containing claims 4-10, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by 
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